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Attorneys for Defendants State of Oregon and Tomme Ralls

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF OREGON

VAN LOO FIDUCIARY SERVICES, LLC,
personal representative for the Estate of
Dominic Francis Genise, Deceased,

Plaintiff,

v.

STATE OF OREGON, by and through its
Department of Corrections; TOMME RALLS,
an individual; and JOHN DOES 1-10,

Defendants.

Case No. 6:21-cv-00430-MK

NOTICE OF SETTLEMENT

Pursuant to ORS 17.095, the State notifies the court that this action has been settled pursuant to the terms of a Settlement Agreement and Release, a copy of which is attached as Exhibit 1.

DATED May 30, 2024.

Respectfully submitted,

ELLEN F. ROSENBLUM
Attorney General

s/ Robert E. Sullivan
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Of Attorneys for Defendants State of Oregon
and Tomme Ralls

RELEASE AND SETTLEMENT AGREEMENT

A. PARTIES

The parties ("PARTIES") to this Release and Settlement Agreement ("Settlement Agreement") are: Van Loo Fiduciary Services, LLC, in its capacity as Personal Representative of the Estate of Dominic Genise ("PLAINTIFF"); State of Oregon, by and through its Department of Corrections ("STATE OF OREGON"); and Tomme Ralls ("RALLS"). STATE OF OREGON and RALLS are collectively referred to herein as "DEFENDANTS."

B. RECITALS

1. PLAINTIFF is the duly-appointed personal representative of the Estate of Dominic Genise, which estate was opened for the purpose of pursuing tort claims against DEFENDANTS for alleged acts and omissions that resulted in Dominic Genise's death. The probate case is presently pending as *In the Matter of the Estate of Dominic Francis Genise*, Marion County Circuit Court (Probate Department) Case No. 19PB06813 ("the Probate Case"), and PLAINTIFF will file a petition to approve this Settlement Agreement in the Probate Case.

2. PLAINTIFF has filed a lawsuit ("the Lawsuit") against DEFENDANTS alleging Wrongful Death and Violations of Civil Rights arising from Dominic Genise's death while in the custody and care of the Department of Corrections. That lawsuit, which is captioned *Van Loo Fiduciary Services, LLC, personal representative for the Estate of Dominic Francis Genise, Deceased, Plaintiff, v. State of Oregon, by and through its Department of Corrections; Tomme Ralls, an individual; and John Does 1-10*, is presently pending in United States District Court for the District of Oregon, Portland Division, as case number 3:21-CV-00430-JR.

3. The PARTIES, desiring to avoid the expense and delay inherent in litigation and further legal wrangling, have agreed to settle and compromise the Lawsuit on the terms set forth below.

C. TERMS

1. **Probate Court Approval.** The PARTIES acknowledge that this Settlement Agreement will be submitted to the Marion County Circuit Court Probate Department (hereinafter "Probate Court") for approval at the same time, and that this Settlement Agreement is not binding on any of the PARTIES unless and until it is approved by that Court.

2. **Settlement Amount.** Effective only upon Probate Court Approval of the Settlement Agreement as set forth in paragraph C.1, As consideration for Plaintiffs' Release of Claims, and on behalf of the Released Parties described below, the State of Oregon, by and through the Oregon Department of Administrative Services/Risk Management ("Risk Management"), shall pay the total sum of \$3,500,000.00 (the "Settlement Amount") as follows:

- (a) STATE OF OREGON shall pay the sum of \$3,500,000.00 to "The Law Office of Josh Lamborn, P.C. (FBO: Genise Estate)" Unless otherwise agreed, Risk Management will issue an IRS Form 1099 for the 2024 calendar year.

3. Characterization and Disbursement of Settlement Amount. The Settlement Amount shall constitute damages under ORS 30.020(2)(a), (b) and (d), and the net amount after payment of costs and expenses pursuant to ORS 30.030(2), (3) and (4) shall be distributed pursuant to the beneficiaries by agreement.

The PARTIES agree that no party warrants or represents how the United States Internal Revenue Service ("IRS"), the Oregon Department of Revenue, or other governmental authority will treat the payments described in paragraph C.2 for tax purposes, and the PARTIES agree that no further payment of money from the STATE OF OREGON will be due in the event that the payments or the release of claims embodied in this Settlement Agreement, or any portion thereof, are found by the IRS, the Oregon Department of Revenue, or other governmental authority to be, or to result in, taxable income to any party. The STATE OF OREGON, as part of their reporting requirements, may have to communicate with the IRS, including submitting IRS Form 1099. The STATE OF OREGON reserves the right to respond to inquiries by said authorities and to make any additional disclosures requested by the governmental authority or as required by law. PLAINTIFF agrees to defend, indemnify, and hold harmless the STATE OF OREGON from any and all manner of liability if any should be imposed on it by the IRS, the Oregon Department of Revenue, or other governmental authority regarding the payments to the beneficiaries under this Settlement Agreement. Upon receipt of written notification from the STATE OF OREGON that such liability has been imposed by the IRS, the Oregon Department of Revenue, or any other governmental authority and the amount thereof, the beneficiaries agree to fully remit such monies to the demanding entity within thirty (30) days from his receipt of such notification or upon any such terms as the demanding entity may permit. The beneficiaries understand they are solely responsible for the tax consequences of the payments set forth in paragraph C.2, agrees not to hold STATE OF OREGON responsible for taxes due, and recognize they are solely responsible for any resultant tax payments associated with this Settlement Agreement.

4. Release of Claims. Except as provided in paragraph C.3, effective upon the latest of payment by the STATE OF OREGON of the Settlement Amount as set forth in paragraph C.2, which payment shall be satisfied upon the receipt of the check identified in paragraph C.2.A by The Law Office of Josh Lamborn, P.C. and in consideration of the provisions of this Settlement Agreement, the above-named PARTIES mutually release one another and their respective agents, employees, successors, and assigns from any and all liens, claims (known and unknown), demands, damages, costs, attorney fees, liability, claims for contribution, claims for indemnity, and claims for breach of contract arising from or in any way related to the incidents described in the lawsuit identified in paragraph B.2, whether or not alleged in the Lawsuit. This release is intended to extinguish any and all possible claims the PARTIES could bring against any and every conceivable person or entity relating in any way to injuries to or the death of Dominic Genise and to protect the PARTIES from future claims or actions brought by any of them or their heirs, successors, or assigns against another of them or their heirs, successors, or assigns. This release includes, but is not limited to, any and all of PARTIES' insurers, together with their officers, agents, employees, accountants, attorneys, guardians *ad litem*, conservators, estates, assigns, personal representatives,

all persons or entities in interest with them, and affiliated third parties (including all named defendants). Nothing herein is intended to release, impair, or affect any claims that any party may have that arise from the breach of this Settlement Agreement or from conduct arising after the date of this Settlement Agreement

PLAINTIFF shall defend, indemnify and hold STATE OF OREGON and RALLS harmless from any and all outstanding liens of any kind that have been or may be asserted against the proceeds of this settlement or settlement consideration, including but not limited to Medicaid, Medicare, and attorneys' liens.

7. Dismissal of Court Case. Upon the full execution of documents contemplated by this Settlement Agreement, the PARTIES shall sign a stipulated judgment dismissing the lawsuit referenced in paragraph B.2 of this Settlement Agreement with prejudice and without costs or attorney fees to any party.

8. Free Will/Binding Effect. The PARTIES agree that they have entered into this Settlement Agreement voluntarily, of their own free will and accord, each with the advice of their independent counsel, and they each intend this Settlement Agreement to be a fully binding legal agreement. This Settlement Agreement shall be binding upon and inure to the benefit of the PARTIES to this Settlement Agreement, their heirs, successors and assigns, and the releasees identified in paragraph C.4. above, and shall not be amended or modified without the express written consent of the PARTIES.

9. Applicable Law. This Settlement Agreement shall be interpreted, applied and enforced in accordance with federal and Oregon state law, as applicable.

10. Compromise of Disputed Claims. The PARTIES acknowledge that this Settlement Agreement settles and compromises claims and defenses which are denied and disputed by other parties. Nothing in this Settlement Agreement or any conduct of the PARTIES pursuant to its terms is intended or shall be deemed or construed to constitute an admission of liability by any party to the other party, the validity or lack thereof of any claim or defense of any party against the other, or the cause or absence of reasonable cause to bring or pursue any claim, suit, defense, or action by a party against the other party.

11. Costs and Attorney Fees. Notwithstanding any statutory provision entitling any party to costs or attorney fees from any other party, each of the PARTIES will bear his, her, or its own costs and attorney fees.

12. Good Faith Cooperation. The PARTIES will continue to cooperate in good faith to assist each other in providing documents, signatures, and other reasonable cooperation on documents, revisions, or amendments that may be needful to accomplish the purposes of this of this Settlement before the Probate Court, government agencies, or other third parties.


13. Counterparts. This Settlement Agreement may be executed in one or more counterparts, including facsimile counterparts, and all so executed shall constitute one agreement,

binding on all the PARTIES to this Settlement Agreement, even though all PARTIES are not signatories to the original or the same counterpart. Any counterpart of this Settlement Agreement, which has attached to it separate signature pages, which altogether contain the signatures of all PARTIES, is for all purposes deemed a fully executed instrument.

14. Entire Agreement. This Settlement Agreement constitutes the entire agreement between the PARTIES. However, the PARTIES understand and agree that they will execute and deliver to one another any such additional documents as may be required or contemplated by the PARTIES to implement the terms of this Settlement Agreement.

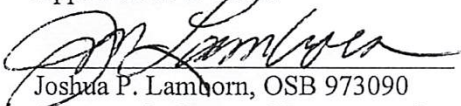
IN WITNESS WHEREOF, this Settlement Agreement has been executed by the PARTIES on the dates shown below.

PLAINTIFF:


By: Cindy Van Loo, for
Van Loo Fiduciary Services, LLC,
Personal Representative

Dated: 5/23/2024

Approved as to Form:


Joshua P. Lamborn, OSB 973090
Attorney for Personal Representative

Dated: 5/20/24

DEFENDANTS:


Joe Bugher, Oregon Department
of Corrections
For Defendant State of Oregon

Dated: 5/30/2024

Approved as to Form and on Behalf
of the Attorney General:

s/ Robert Sullivan
Robert Sullivan, OSB 983539
Of Attorneys for State of Oregon and
Tomme Ralls

Dated: 5/30/2024

CERTIFICATE OF SERVICE

I certify that on May 30, 2024, I served the foregoing NOTICE OF SETTLEMENT upon the parties hereto by the method indicated below, and addressed to the following:

Josh Lamborn
The Law Office of Josh Lamborn
50 SW Pine St. Ste 301
Portland, OR 97204
Attorney for Plaintiff

☐ HAND DELIVERY
☐ MAIL DELIVERY
☐ OVERNIGHT MAIL
☐ TELECOPY (FAX)
☐ E-MAIL
☒ E-SERVE

Paul C Galm
Davis Galm Law Firm
12220 SW First St
Beaverton, OR 97005
Attorney for Plaintiff

☐ HAND DELIVERY
☐ MAIL DELIVERY
☐ OVERNIGHT MAIL
☐ TELECOPY (FAX)
☐ E-MAIL
☒ E-SERVE

s/ Robert E. Sullivan
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